



# Enforcing the ADA

## *A Status Report from the Department of Justice*

*(October-December 1999)*

*This Status Report covers the ADA activities of the Department of Justice during the fourth quarter (October - December) of 1999. This report, previous status reports, and a wide range of other ADA information are available through the Department's ADA Home Page on the World Wide Web (see page 12). The symbol (\*\*) indicates that the document is available on the ADA Home Page.*

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The Americans with Disabilities Act (ADA) is a comprehensive civil rights law for people with disabilities. The Department of Justice enforces the ADA's requirements in three areas -

Title I: Employment practices by units of State and local government

Title II: Programs, services, and activities of State and local government

Title III: Public accommodations and commercial facilities

## I. Enforcement

*Through lawsuits and both formal and informal settlement agreements, the Department has achieved greater access for individuals with disabilities in hundreds of cases. Under general rules governing lawsuits brought by the Federal Government, the Department of Justice may not file a lawsuit unless it has first unsuccessfully attempted to settle the dispute through negotiations.*

### A. Litigation

*The Department may file lawsuits in Federal court to enforce the ADA and may obtain court orders including compensatory damages and back pay to remedy discrimination. Under title III the Department may also obtain civil penalties of up to \$55,000 for the first violation and \$110,000 for any subsequent violation.*

#### 1. Decisions

***Appeals Court Says Title III May Cover Contents of Insurance Policy...*** -- The U. S. Court of Appeals for the Second Circuit ruled in [Pallozzi v. Allstate Life Insurance Co.](#) that the ADA may prohibit disability-based discrimination in insurance underwriting practices.

Plaintiffs alleged that Allstate refused to sell them a life insurance policy because they have mental disabilities. The district court dismissed the case because the plaintiffs did not say in their complaint that Allstate acted without an actuarial basis in refusing to sell them a policy. On appeal the Second Circuit agreed with the Department's amicus brief in ruling that title III does not only cover physical access to places of public accommodation but also may cover the decision not to sell a policy. It also ruled that other Federal law does not prevent title III from covering insurance underwriting, because the ADA specifically relates to the business of insurance. The Second Circuit also ruled on who has the burden of proof under the ADA's limited insurance exemption. To show that an insurance practice is not entitled to the exemption, the plaintiff has the burden of proving that the practice either is inconsistent with State law or is being used as a subterfuge to evade the purposes of the ADA. However, the court ruled that under New York insurance law there was no basis for putting the burden on plaintiffs to prove that the challenged practice lacked an actuarial justification.

**... But that ADA's Insurance Exemption has Broad Scope --** In Leonard F. v. Israel Discount Bank of New York, the U.S. Court of Appeals for the Second Circuit sharply limited the circumstances in which insurance actions can be challenged under the ADA. Plaintiff sued his employer and an insurance company, challenging a long-term disability insurance plan under which employees can receive benefits until age 65 if they become totally disabled due to physical impairments but for only two years if the disability results from mental impairments. The district court dismissed the title III claims, holding that the distinction between mental and physical conditions was exempt from challenge under the ADA's limited insurance exemption. The Department filed an amicus brief on appeal arguing that title III's coverage is not limited to physical access to places of public accommodation and that it prohibits unjustified discrimination in the terms and conditions of insurance coverage. The Second Circuit overturned the district court's dismissal of the case but did not specifically address the coverage issue raised in the Department's brief or whether the insurance policy was discriminatory. It did, however, rule that an insurance practice will be protected by the ADA's insurance exemption, whether or not the practice has an actuarial justification, as long as it complies with State law and is not a subterfuge to evade the purposes of the ADA. The court further ruled that an insurance practice cannot qualify as a subterfuge unless it was adopted after the enactment of the ADA.

**Public Transit Authority May Be Liable for Discrimination by Private Contractor --** The U.S. District Court for the Eastern District of North Carolina allowed a lawsuit to continue that challenges the inaccessibility of the Raleigh, North Carolina, bus system to wheelchair users. In James v. Peter Pan Transit Management, Inc., the court ruled, as urged by the Department in an amicus brief, that the public transit authority may be held liable under title II for discrimination by a private company that provides bus service to the

public under a contract with the transit authority and that the plaintiff's claim for damages should not be dismissed. The plaintiff alleged that she was denied equal access to the CAT Connector service, a supplemental van service that connects bus routes and other points of interest and that also serves on a demand-responsive basis areas not fully served by regular transit buses. Specifically, she charged that Peter Pan drivers refused to pick her up, that lift and securement equipment were often missing or inoperable, and that drivers were not adequately trained to use the lift and securement equipment.

## 2. New lawsuits

*The Department initiated or intervened in the following lawsuits.*

### Title I

*U.S. v. New Chicago, Indiana --* The Department filed a lawsuit in the U.S. District Court for the Northern District of Indiana against New Chicago, Indiana, alleging that the town illegally retaliated against an employee for having filed a charge of employment discrimination with the Equal Employment Opportunity Commission under title I of the ADA. The complainant, a former dispatcher in the police department, alleged in her EEOC charge that she had been discriminated against by the town in the administration of its employee group health insurance plan. Following the filing of the charge, the town, in retaliation, took a wide range of adverse actions, including refusing to speak to her about alleged deficiencies in her work performance, subjecting her work to unreasonable scrutiny, informing the police commission about alleged deficiencies in her work performance, engaging in reprimands and suspensions, and filing formal charges against her that ultimately resulted in her termination from employment.

## Titles I and II

*Nored v. Weakley County 9-1-1 Emergency Communications District* -- The Department moved to intervene in a lawsuit challenging a Tennessee State statute that prohibits all persons with “any apparent mental disorder” from occupying positions as public safety dispatchers. This includes any disorder, even the most minor, listed in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association. The ongoing lawsuit was filed in the U.S. District Court for the Western District of Tennessee by two former 9-1-1 operators who, despite satisfactory job performance, were subjected to psychological tests and removed from their positions because they were diagnosed as having minor mental disorders. One dispatcher was diagnosed as “subject to emotional disability,” the other as “overly reactive” and “at risk of impulse control difficulties.” The State, however, did not find either individual to be a safety hazard or unable to perform on the job. The Department’s intervention would broaden the suit to challenge five State statutes that prohibit persons with apparent mental disorders from serving as public safety dispatchers, police officers, corrections officers, youth service officers, and sheriffs, and seek relief for all persons injured by these laws.

## Title II

*New Interventions to Defend the Constitutionality of the ADA* -- The Department intervened in four additional cases where States argue that it is unconstitutional for Congress to permit ADA lawsuits directly against State governments. The States generally assert that Congress lacks authority under the Fourteenth Amendment to subject them to lawsuits under the ADA, because the ADA’s protections go beyond the equal protection rights guaranteed by the U.S. Constitution. The Department intervened in the following cases to argue that ADA is constitutionally appropriate legislation to remedy

the history of pervasive discrimination against people with disabilities --

*Walker v. Washington* (7th Circuit) -- title II suit challenging prison surcharge for providing an auxiliary aid.

*Hallen v. Union Beach Board of Education* (District of New Jersey) -- title II suit challenging the failure to place 20-year-old plaintiff with autism in the most integrated setting appropriate.

*New Jersey Protection and Advocacy v. Waldman* (District of New Jersey) -- title II suit challenging institutional placement of nine individuals with developmental disabilities.

*Stephens v. University of Tennessee (Knoxville)* (Eastern District of Tennessee) -- employment suit under titles I and II alleging that employer failed to promote plaintiff because she has Hepatitis C and Graves’ Disease.

## Title III

*U.S. v. Law School Admission Council, Inc.* -- The Department filed suit against the Law School Admission Council (LSAC) for not making reasonable modifications in policy to allow individuals with physical disabilities in appropriate cases to have additional time to take the Law School Admission Test (LSAT). The lawsuit, filed in the U.S. District Court for the Eastern District of Pennsylvania, alleges that LSAC violated the ADA when it denied four individuals with physical disabilities, including cerebral palsy and juvenile rheumatoid arthritis, additional time on the multiple-choice portion of the LSAT, a standardized test administered to those seeking admission to law school. The complaint alleges that LSAC illegally followed a policy of requiring applicants with physical disabilities to submit a psychoeducational assessment as the basis for determining whether extra time is appropriate. Such assessments, which are typically used to diagnose whether individuals have learning

disabilities, are not appropriate for determining whether extra time is needed for individuals with physical disabilities. The complaint also asserts that LSAC failed to individually assess requests for accommodations, provide adequate reasons for denying accommodations, and engage in an interactive process with individuals seeking testing accommodations. The lawsuit asks the court to order LSAC to change its policies, pay civil penalties, and award compensatory damages to the four named individuals.

*Higgins v. Warrior Insurance Group d/b/a Gallant Insurance* -- The U.S. Attorney for the Southern District of Illinois moved to intervene in a lawsuit where the plaintiff alleged that an insurance company terminated her car insurance policy because of her mild mental retardation. Gallant Insurance issued an auto insurance policy to the plaintiff but revoked it when her car was stolen and refused to pay the claim. The company claims that, in response to a question about “nervous” or “medical conditions” on the insurance application, she misrepresented her health status by not indicating that she has mental retardation. The company therefore believes that it was entitled to rescind the policy. The Department believes there was no misrepresentation and that the company’s actions violated title III.

### 3. Consent Decrees

*Some litigation is resolved at the time the suit is filed or afterwards by means of a negotiated consent decree. Consent decrees are monitored and enforced by the Federal court in which they are entered.*

#### Titles II and III

*Pascuiti v. New York Yankees* -- A consent decree entered into by the U.S. Attorney for the Southern District of New York, the New York Yankees, and the City of New York will vastly increase the number of accessible wheelchair seating locations at Yankee Stadium. In the past,

a total of only 44 pairs of wheelchair and companion seating locations were available at the stadium, 12 of which were sold at the highest ticket price level and none of which were sold at any of the lowest three ticket price levels. Under the agreement, the Yankees and the city must increase the number of wheelchair and companion seating locations to up to 400 pairs of seating locations and disperse those seating locations throughout the lower levels of the stadium. These areas include infield and outfield seating on the field level, in the main level boxes, the main reserve section, the bleachers, the loge, and in two entirely new seating sections to be constructed in an area near Monument Park in left field and in an area behind right center field. The consent decree also requires the defendants to provide at least 300 designated aisle transfer seats in the stadium. In addition, the defendants agreed to sell tickets to both regular season and post-season games for all but 18 of the wheelchair seating locations at the three lowest ticket price levels (there are eight ticket price levels for the 2000 season), provide persons with disabilities the opportunity to purchase regular season and post-season tickets through all of the same methods afforded to persons without disabilities, and make components within Yankee Stadium, such as exterior and interior routes, signs, restrooms, telephones, drinking fountains, concession areas, elevators, ticket windows, restaurants, luxury suites, and press areas accessible to persons with disabilities. The Yankees also agreed to pay a \$25,000 civil penalty and to make \$10,000 in charitable contributions to charities chosen by the private plaintiffs.

#### Title III

\*\* *Drew v. Merrill* -- The Disability Rights Section and the U.S. Attorney for the District of Oregon intervened in and, at the same time, settled a lawsuit challenging a Portland obstetrician’s refusal to provide a sign language interpreter for medical consultations with a

nondisabled, expectant mother and a deaf father. The suit was resolved through a consent decree reached through formal mediation under which Perinatal Associates agreed to institute a policy of providing sign language interpreters for deaf patients or their partners who are deaf to ensure effective communication; provide training for doctors and staff on the requirements of the ADA; and pay \$25,000 in damages to the plaintiffs.

*U.S. v. Cipriani Fifth Avenue, LLC* -- The U.S. Attorney for the Southern District of New York filed and, at the same time settled by consent decree, a lawsuit against the current owners and operators, and the former operator, of the Rainbow Complex, a complex of restaurants, bars, and function rooms at 30 Rockefeller Plaza in New York City that includes the Rainbow Room, the Promenade Bar, Rainbow and Stars, and the Park Suite. The suit alleged violations of

**\*\* Days Inns Will Promote Accessibility at New Hotels Nationwide** -- The world's largest hotel chain agreed to undertake a nationwide initiative designed to make hundreds of its new hotels across the country more accessible to persons with disabilities. The consent decree, filed in U.S. District Court in Pikeville, Kentucky, resolves five lawsuits filed by the Department of Justice. The suits alleged that franchiser Days Inns of America, Inc, and its parent company, Cendant Corporation (formerly HFS, Inc), because of their significant role in the design and construction of new Days Inns hotels, violated the ADA by allowing franchisees to construct hotels that failed to comply with the ADA Standards for Accessible Design. Under the agreement, Days Inns will --

- Require new hotels to certify that they are in compliance with the ADA Standards before they open for business as Days Inns;
- Pay for an independent survey program designed to identify ADA problems at newly constructed hotels;
- Establish a \$4.75 million revolving fund to provide interest-free loans to franchisees of newly constructed hotels to finance repairs and renovations required for ADA compliance; and,
- Pay \$50,000 to the United States.

The agreement ends four years of litigation that followed an 18-month investigation of newly constructed Days Inn hotels across the country. The investigation revealed that similar accessibility problems existed throughout the chain, including, for example, insufficient accessible parking, inaccessible entrances and walkways at the facilities; inadequate space for persons who use wheelchairs to maneuver in guestrooms and bathrooms; insufficient visual alarm systems for persons who are deaf or hard of hearing; inadequate signage for persons who are blind or have low vision; inaccessible routes throughout the hotels; and guestroom and bathroom doors that were not wide enough to allow wheelchairs to pass inside. The owners, contractors and all but one architect for each of the five hotels named in the lawsuits had earlier entered into consent decrees or settlement agreements with the Department. This consent decree resolves the remaining claims against Days Inns of America and Cendant Corporation.

the ADA's barrier removal and alterations requirements. The current owners and operators of the Rainbow Complex agreed to construct a new, fully accessible, alternate entrance to the Rainbow Room and a new, fully accessible unisex restroom. In addition to the restaurant, the consent decree requires extensive modifications that will open the other bars and function rooms of the complex to persons with disabilities. It also requires the complex to modify interior routes, interior doors, fire alarms, elevators, elevator lobbies, restrooms, and public telephones. In addition, the current owners and operators have agreed to develop written policies for providing goods and services to individuals with disabilities, including a new policy for the reservation of tables by persons with disabilities, and to make the new policies known to employees and patrons. The consent decree requires the former operator of the Rainbow Complex to pay \$25,000 to the United States in civil penalties, and \$15,000 to the Eastern Paralyzed Veterans Association, a nonprofit veterans service organization that filed a complaint with the Department of Justice, on behalf of its members, against the Rainbow Room.

#### 4. Amicus Briefs

*The Department files briefs in selected ADA cases in which it is not a party in order to guide courts in interpreting the ADA.*

##### Title II

*Schaefer v. State Insurance Fund* -- The Department argued in a brief filed with the U.S. Court of Appeals for the Second Circuit that an individual who takes medication to control type 2 diabetes is not automatically excluded from ADA protection under the Supreme Court's recent rulings on mitigating measures in Sutton v. United Airlines, Inc., and Murphy v. United Parcel Service, Inc. In those cases the Supreme Court ruled that, in determining whether an individual has an impairment that substantially limits one or more

major life activities, courts should consider the effect of mitigating measures such as eye glasses or medications. The plaintiff won a jury verdict of \$70,000 in damages on her claim that her New York State agency employer had illegally terminated her from her job as office clerk because of her diabetes. The trial court ruled that the effect of mitigating measures, such as medication, should not be considered in determining whether the plaintiff was substantially limited in a major life activity and found that she was a person with a disability entitled to bring an ADA lawsuit. Later, after the trial, the Supreme Court in Sutton and Murphy adopted the opposite rule that the mitigating effects of medication should be taken into account. The Department argued that the court of appeals should not dismiss the case and that the plaintiff should be given the chance to make her case in the trial court that, even under the new Supreme Court standard, she is still a person with a disability under the ADA. The brief asserts that the plaintiff might be able to show that the medication did not alleviate all the effects of her diabetes or that the medication itself caused disabling side effects, or that, even if the effects of the disease were currently controlled, the plaintiff was regarded as disabled because of myths, fears, and stereotypes about the disease, or was subjected to discrimination because of a record of a substantially limiting impairment.

*Bartlett v. New York State Board of Law Examiners* -- The Department filed an additional amicus brief in support of a New York bar applicant with dyslexia who seeks accommodations including extra time for taking the New York State Bar Examination. The U.S. Court of Appeals for the Second Circuit earlier ruled that, because of her dyslexia, the applicant's ability to decode words in a timely fashion was significantly restricted as compared to the average person in the general population and therefore that she was a person with a disability under the ADA. The court did not take into account the applicant's history of self-adjustments, which allowed her to achieve roughly average reading

skills on some measures, in determining whether her dyslexia substantially limited the major life activities of reading or learning. The decision was appealed to the Supreme Court which returned the case to the Second Circuit for review in light of the Supreme Court's 1999 rulings that mitigating measures should be taken into account in determining whether an individual is a person with a disability. The Department's latest brief argues that even taking her efforts at self-accommodation into account the applicant still lacks automaticity in decoding words and remains substantially limited in the major life activity of reading.

### **B. Formal Settlement Agreements**

*The Department sometimes resolves cases without filing a lawsuit by means of formal written settlement agreements.*

#### **Title II**

*Self-evaluations and Transition Plans* -- The town of Ferriday, Louisiana and the Vernon Parish Police Jury in Louisiana agreed to complete self-evaluations and transition plans and to report to the Department on their implementation.

*Tillman County, Oklahoma* -- The Department entered an agreement with the Tillman County Oklahoma Jail resolving a complaint that the jail failed to provide effective communication for a hard of hearing individual who was arrested and incarcerated. The jail agreed to purchase two TDDs, develop and implement an effective communications policy, revise its medical screening form to ask if an inmate has any effective communications needs, and provide related training for its staff.

#### **Title III**

*Orlando Science Center, Orlando, Florida* -- The Orlando Science Center agreed to correct violations of the ADA's new construction requirements. The Center will create two additional wheelchair spaces with fixed companion seating in both its theater and planetarium, lower counter tops, and make its photo lab and all restrooms accessible.

*Wal Mart Stores, Inc., Bentonville, Arkansas* -- The Department entered into an agreement with Wal Mart resolving complaints filed by individuals with mobility disabilities alleging that Wal Mart Store managers sometimes blocked accessible parking spaces by displaying sale items there. Wal Mart agreed to redistribute to all of its 3,000 store managers its existing policy requiring accessible parking spaces to be reserved solely for the use of individuals with disabilities.

*Neurologic Institute of the Gulf Coast, Gulfport, Mississippi* -- Under an agreement with the U.S. Attorney's Office for the Southern District of Mississippi, the Neurologic Institute of the Gulf Coast will provide sign language interpreters when necessary to ensure effective communication with its patients who are deaf or hard of hearing. The Institute agreed to provide interpreters upon 48 hours' notice for regularly scheduled appointments; to post its interpreter policy in writing in the office, and to conduct an ADA training seminar for its staff.

*Sledge, Inc., d/b/a The 9:30 Club, Washington, D.C.* -- A Washington D.C. concert club agreed to settle a complaint by a deaf individual who alleged that the club refused his request in advance for a sign language interpreter for a concert. The owners of the 9:30 Club agreed to provide a sign language interpreter for any performance when requested in advance by customers who are deaf or hard of hearing and to give ADA training to their employees who deal with the public.



*Saxton Pierce Restaurant Corporation, d/b/a Mazzio's Pizza, Clinton, Mississippi* -- The U.S. Attorney for the Southern District of Mississippi entered into a settlement agreement with Mazzio's Pizza to resolve violations of the ADA Standards for Accessible Design in the company's architectural designs for a new restaurant. Under the settlement agreement, Mazzio's will provide the required number of accessible parking spaces with proper dimensions and signage, including one van-accessible space to comply with the ADA Standards for Accessible Design. Mazzio's modified the plans for the restrooms to provide maneuvering space on the pull side of the door in the vestibule outside the restrooms and clear floor space underneath the lavatories. In addition, Mazzio's altered its design to provide an accessible entrance into the kitchen area and to relocate the planned common use lavatory in the kitchen preparation area to provide the required maneuvering space.

**C. Other Settlements**

*The Department resolves numerous cases without litigation or a formal settlement agreement. In some instances, the public accommodation, commercial facility, or State or local government promptly agrees to take the necessary actions to achieve compliance. In others, extensive negotiations are required. Following are some examples of what has been accomplished through informal settlements.*

A Texas city agreed to remove barriers at its City Hall by installing an accessible door for the entrance of the building, grab bars in the restroom, and appropriate signage.

A southern State bar implemented a policy of granting individuals with disabilities additional time to take the bar examination in appropriate cases.

A Texas county made several modifications to its courthouse facility, including installing accessible parking spaces, curb ramps, an exterior ramp, handrails for the exterior ramp and exterior stairs, and signage designating routes to accessible entrances. It also ensured the accessibility of its new courthouse annex.

An Oklahoma county provided accessible parking at its courthouse, installed a curb cut to provide access from the parking lot to the street, and constructed a wheelchair ramp that provides access to the first floor of the courthouse.

A Pennsylvania county removed barriers in its existing courthouse and ensured access in a new addition.

*The U.S. Attorney for the Southern District of Illinois obtained informal settlements in the following cases --*

A movie theater constructed additional accessible wheelchair seating locations and companion seating.

Two hospitals agreed to adopt a policy for providing sign language interpreters to ensure effective communication in the delivery of services.

An attorneys' office agreed to provide qualified interpreters to ensure effective communication with clients and potential clients who are deaf or hard of hearing.

A job fair and convention center agreed to make a qualified interpreter available during the job fair.

## II. Mediation

*Under a contract with the Department of Justice, The Key Bridge Foundation receives referrals of complaints under titles II and III for mediation by professional mediators who have been trained in the legal requirements of the ADA. An increasing number of people with disabilities and disability rights organizations are specifically requesting the Department to refer their complaints to mediation. More than 450 professional mediators are available nationwide to mediate ADA cases. Over 80 percent of the cases in which mediation has been completed have been successfully resolved. Following are recent examples of results reached through mediation --*

- In South Carolina, a person with a hearing impairment complained that a live performance theater was inaccessible to patrons who are deaf or hard of hearing. The theater now provides interpreters for patrons and has made available ten sets of FM assistive listening devices. The theater installed a TDD at the ticket counter with appropriate signage indicating the location of the TDD and upgraded the pay telephone to include amplification. The theater expanded the visual fire alarm system to include the restroom areas and installed Brailled signage. In addition, the theater agreed to include the symbol for interpreted programs when printing new brochures for the next season of performances.
- In New Jersey, a wheelchair user complained that a building containing a therapist's office did not have accessible parking. The building owner agreed to create an additional accessible parking space and a van-accessible parking space adjacent to the building entrance. The owner also agreed to reduce the opening force of the front and rear entrance doors.
- A wheelchair user complained that a Massachusetts shopping mall did not have enough accessible parking. The mall owner agreed to create twelve additional accessible parking spaces and to replace two signs in front of the existing accessible spaces that had been torn down. He also agreed to install a ramp in front of one of the stores and to resurface three existing ramps.
- In Florida, a person with a disability affecting his ability to swallow complained that a bus driver did not allow him to carry water in a closed container onto a tour bus. The tour company management agreed to discipline the driver, including the loss of a bonus and the withholding of new assignments for a six-week period. Management revised company policy to require all drivers to comply with the ADA and to give them notice that violations of this policy will be grounds for termination, and distributed it to all drivers. The company also implemented several changes to make it easier for customers to file a complaint directly with the company.
- In California, the spouse of a wheelchair user complained that a restaurant did not provide accessible parking. The restaurant agreed to install accessible parking.
- A wheelchair user complained that a North Carolina hotel room, designated accessible, had an improperly installed grab bar that came loose, resulting in serious injury to the complainant. The hotel management agreed to modify toilets, install proper grab bars, and relocate towel racks in all accessible rooms to comply with the ADA. The hotel also agreed to pay the complainant \$92,500.

- In Wisconsin, a person with a mobility impairment complained that the van accessible parking space in front of city hall did not include an appropriately sized access aisle. The city modified the parking space to make it accessible.
- In California, a deaf couple complained that a doctor refused to provide a sign language interpreter for office visits and required the couple to pay for their own interpreter. The doctor reimbursed the sign language interpreter for two previous office visits, posted a notice about the ADA and auxiliary aids in the waiting room, and agreed to improve his staff's understanding of the ADA's requirements.
- A wheelchair user complained that a Colorado restaurant was inaccessible. The restaurant installed curb ramps so that wheelchair users will have unobstructed access to the restaurant.
- In Florida, a person with a mobility impairment complained that a drug store did not provide accessible parking. The drug store agreed to provide two accessible spaces.
- In Kentucky, a wheelchair user complained that a restaurant had an inaccessible entrance. The restaurant owner installed a ramp to provide full access to the restaurant.
- A wheelchair user complained that the accessible door to the lobby housing a New York bank's ATM machine was locked after business hours, leaving only an inaccessible revolving door for access after business hours. The bank agreed to keep the accessible entrance door open 24-hours a day and to install signage indicating the location of the accessible entrance.
- In Texas, a person with a mobility impairment complained that a country club did not have enough accessible parking spaces. The country club added two additional accessible spaces.
- In California, a person who uses a service animal complained that a restaurant refused her service because of her service animal. The restaurant agreed to change its policy and to educate owners and staff about their obligations under ADA. The restaurant also paid the complainant \$250.
- An occupational therapist complained that the bathrooms in a Michigan hotel's accessible guest rooms were inaccessible due to the location of fixtures within the room. The hotel relocated the lavatory in the bathrooms of the accessible rooms to provide full and unobstructed access.
- In Missouri, a person with a mobility impairment complained that a convenience store did not provide accessible parking or an accessible entrance and that the aisles of the store were frequently obstructed, restricting access for wheelchair users. The store installed accessible parking with appropriate signage and a ramp to the entrance. The store also agreed to keep the aisles clear of obstructions.
- A wheelchair user complained that a Missouri doctor's office did not provide accessible parking and that curb ramps to the building were too steep. The doctor's office restriped the parking lot to provide four accessible spaces, including two van-accessible spaces, with appropriate signage, and also installed accessible curb ramps.
- In New Jersey, a representative of a disability rights organization complained that a shopping center did not provide accessible parking or enough curb ramps. The shopping center repaired the parking lot surface, restriped the parking lot to provide accessible parking, including van accessible spaces, installed new curb ramps, and repaired existing curb ramps.

- In Texas, a person with a mobility impairment disability complained that a golf course did not provide enough accessible parking spaces. The golf course added three additional accessible parking spaces with proper signage.
- A person who uses a service animal complained that she was asked to leave a food service establishment in California because of her service animal. The food service establishment apologized for the incident, educated owners and staff about the ADA, and paid the complainant \$50.

### III. Technical Assistance

*The ADA requires the Department of Justice to provide technical assistance to entities and individuals with rights and responsibilities under the law. The Department encourages voluntary compliance by providing education and technical assistance to businesses, governments, and members of the general public through a variety of means. Our activities include providing direct technical assistance and guidance to the public through our ADA Information Line, ADA Home Page, and ADA Fax on Demand, developing and disseminating technical assistance materials to the public, undertaking outreach initiatives, operating an ADA technical assistance grant program, and coordinating ADA technical assistance government-wide.*

#### ADA Home Page

An ADA home page is operated by the Department on the Internet's World Wide Web (<http://www.usdoj.gov/crt/ada/adahom1.htm>). The home page provides information about:

- the toll-free ADA Information Line,
- the Department's ADA enforcement activities,
- the ADA technical assistance program,
- certification of State and local building codes,
- proposed changes in ADA regulations and requirements, and

- the ADA mediation program.

The home page also provides direct access to:

- ADA regulations and technical assistance materials (which may be viewed online or downloaded for later use),
- Freedom of Information Act (FOIA) ADA materials, and
- Links to the Department's press releases, ADA Bulletin Board, and Internet home pages of other Federal agencies that contain ADA information.

#### ADA Information Line

The Department of Justice operates a toll-free ADA Information Line to provide information and publications to the public about the requirements of the ADA. Automated service, which allows callers to listen to recorded information and to order publications, is available 24 hours a day, seven days a week. ADA specialists are available on Monday, Tuesday, Wednesday, and Friday from 10:00 a.m. until 6:00 p.m. and on Thursday from 1:00 p.m. until 6:00 p.m. (Eastern Time). Spanish language service is also available. To obtain general ADA information, get answers to technical questions, order free ADA materials, or ask about filing a complaint, call:

800-514-0301 (voice)  
800-514-0383 (TDD)

**\*\* *New Publications Provide Guidance for Newly Constructed Hotels* --** To help hotels and hotel chains comply with the ADA, the Department has published three new documents designed to assist hotel owners, franchisers, architects, and contractors gain a better understanding of ADA requirements for newly constructed hotels --

- Common ADA Problems at Newly Constructed Lodging Facilities
- ADA Checklist for New Lodging Facilities
- Five Steps to Make New Lodging Facilities Comply with the ADA

All three documents may be obtained through the ADA Information Line or the ADA Home Page. Two of the documents, Common ADA Problems and Five Steps, are also available through ADA Fax on Demand (documents #3211 and 3212, respectively).

### **ADA Fax On Demand**

The ADA Information Line Fax Delivery Service allows the public to obtain free ADA information by fax 24 hours a day, seven days a week. By calling the number above and following the directions, callers can select from among 32 different ADA technical assistance publications and receive the information, usually within minutes, directly on their fax machines or computer fax/modems. A list of available documents and their code numbers may also be ordered through the ADA Information Line.

### **Publications and Documents**

Copies of the Department's ADA regulations and publications, including the Technical Assistance Manuals for titles II and III, and information about the Department's technical assistance grant program can be obtained by calling the ADA Information Line, visiting the ADA Home Page on the World Wide Web, or writing to the address listed below. All materials are available in standard print as well as large print, Braille, audiotape, or computer disk for persons with disabilities.

Disability Rights Section  
Civil Rights Division  
U.S. Department of Justice  
P. O. Box 66738  
Washington, D.C. 20035-6738

Copies of the legal documents and settlement agreements mentioned in this publication can be obtained by writing to:

Freedom of Information/  
Privacy Act Branch  
Administrative Management Section  
Civil Rights Division  
U.S. Department of Justice  
P.O. Box 65310  
Washington, D.C. 20035-5310  
Fax: 202-514-6195

Currently, the FOI/PA Branch maintains approximately 10,000 pages of ADA material. The records are available at a cost of \$0.10 per page (first 100 pages free). Please make your requests as specific as possible in order to minimize your costs.

The FOI/PA Branch also provides access to ADA materials on the World Wide Web at <http://www.usdoj.gov/crt/foia/records.htm>. A link to search or visit this website is provided from the ADA Home Page.

## IV. Other Sources of ADA Information

The *Equal Employment Opportunity Commission* offers technical assistance to the public concerning the employment provisions of title I of the ADA.

ADA documents  
800-669-3362 (voice)  
800-800-3302 (TDD)

ADA questions  
800-669-4000 (voice)  
800-669-6820 (TDD)

<http://www.eeoc.gov>

The *Federal Communications Commission* offers technical assistance to the public concerning the communication provisions of title IV of the ADA.

ADA documents  
202-314-3070 (voice)  
202-484-8831 (TDD)

ADA questions  
202-418-0976 (voice)  
202-418-0484 (TDD)

<http://www.fcc.gov/df>

The *U.S. Department of Transportation* through the *Federal Transit Administration* offers technical assistance concerning the transportation provisions of title II and title III of the ADA.

ADA Assistance Line for information, questions, or complaints  
888-446-4511 (voice/relay)  
202-366-2285 (voice)  
202-366-0153 (TDD)

ADA legal questions  
202-366-4011 (voice/relay)

<http://www.fta.dot.gov>

The *U.S. Architectural and Transportation Barriers Compliance Board*, or *Access Board*, offers technical assistance to the public on the ADA Accessibility Guidelines.

ADA documents and questions  
800-872-2253 (voice)  
800-993-2822 (TDD)

<http://www.access-board.gov>

The *Disability Rights Education and Defense Fund ADA Hotline* is funded by the Department of Justice to provide technical assistance to the public on all titles of the ADA.

ADA technical assistance  
800-466-4232 (voice & TDD)

<http://www.dredf.org>

The *Disability and Business Technical Assistance Centers* are funded by the U.S. Department of Education through the National Institute on Disability and Rehabilitation Research (NIDRR) in ten regions of the country to provide resources and technical assistance on the ADA.

ADA technical assistance  
800-949-4232 (voice & TDD)

<http://www.adata.org>

*Project ACTION* is funded by the U.S. Department of Transportation to provide ADA information and publications on making transportation accessible.

Information on accessible transportation  
800-659-6428 (voice/relay)  
202-347-3066 (voice)  
202-347-7385 (TDD)

<http://www.projectaction.org>

The *Job Accommodation Network (JAN)* is a free telephone consulting service funded by the President's Committee on Employment of People with Disabilities. It provides information and advice to employers and people with disabilities on reasonable accommodation in the workplace.

Information on workplace  
accommodation  
800-526-7234 (voice & TDD)

<http://janweb.icdi.wvu.edu/english>

## V. How to File Complaints

### Title I

Complaints about violations of title I (employment) by units of State and local government or by private employers should be filed with the Equal Employment Opportunity Commission. Call 800-669-4000 (voice) or 800-669-6820 (TDD) to reach the field office in your area.

### Titles II and III

Complaints about violations of title II by units of State and local government or violations of title III by public accommodations and commercial facilities should be filed with --

Disability Rights Section  
Civil Rights Division  
U.S. Department of Justice  
Post Office Box 66738  
Washington, D.C. 20035-6738

If you wish the complaint to be resolved through the Department's ADA Mediation Program, please mark "Attention: Mediation" on the outside of the envelope.